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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/659,997 | 09/11/2003 | Carl E. Linton | JL-03CVAC0001 | 8998 |
| Carl E Linton 44507 L A Paz Road Temecula, CA 92592 | | | EXAMINER CHEUNG, VICTOR | |
| | | | ART UNIT 3714 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/659,997 | Applicant(s) LINTON, CARL E. | |
| | Examiner Victor Cheung | Art Unit 3714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's remarks have been received, dated 4/25/2007.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows.

The prior art establish that the invention has been in public use more than one year prior to the filing date of the application. Reid (San Diego Union-Tribune, 08/25/2002) dating public use of the CVAC system at least to March 2002 and the end of development into public practice in 2000; "New & Exciting Adventure" CVAC advertisement at Beachwalk Plaza kiosk as early as June, 2002; Testimonials (CVAC Systems Website) dating use of the CVAC system as early as 2000; "Introducing the CVAC Process" offering the sale or use of the CVAC system in 2001.

The prior art disclose that the CVAC system includes the pressure vessel (see left figure "CVAC What's New") and on-board interface (see right figure "CVAC What's New") of claim 1. The CVAC system also includes safety measures ("CVAC FAQ" page 3). It is also inherent of pressure vessels to include pressure transducers for monitoring air pressure inside the vessel, include

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blowers for removing air from the pressure vessels and valves for controlling air entering the pressure vessels to control pressure levels.

As per claims 3-5, the operation of the CVAC system is programmed ("CVAC What is CVAC?" page 1). The Prior art also discloses an external controller ("CVAC What's New", right figure) to control operation of the CVAC (Reid, Page 2) as per claims 6-9. The prior art also discloses set-up programs and individualized programs for the users ("Introducing the CVAC Process").

The features that are not specifically disclosed are in regards to the purpose of the on-board interface, a user sensor, a master controller, and specifically the methods of using the pressure vessel, including the accessing of stored data. Information regarding these recited features of the claims and the method of use of the CVAC system, in claims 1-39, up to and including one year prior to the filing date of the present application are required for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b).

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

Note that while, upon the receipt of further information, a 35 U.S.C. 102(b) rejection may be made in the future for all claims 1-39, the following 35 U.S.C. 103 rejections are made on the assumption that no further useful information is available.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over CVAC (as evidenced by “CVAC What’s New,” “CVAC FAQ,” “CVAC Background/Development,” “Introducing the CVAC Process,” “CVAC What is CVAC”) in view of Butler (US Patent Application Publication No. 2004/0261796) and Galerme (US Patent No. 4,227,524).

Re Claim 1: CVAC discloses a pressure vessel unit comprising a pressure vessel capable of being opened to receive a user and closed to create a hermetic seal (“CVAC What’s New”, Figure Left), including an on-board interface (“CVAC What’s New”, Figure Right).

It is inherent for pressure vessels to be capable of being hermetically sealed, to include a pressure transducer capable of monitoring air pressure inside the pressure vessel, a blower capable of removing air from the pressure vessel, and a proportioning valve capable of controlling the amount of air allowed to enter into the pressure vessel. Pressure transducers are used to measure pressures so a user or operator is aware of the pressure inside the vessel. Blowers and valves are necessary to create the varying degree of pressures inside the vessel.

However, it is not specifically disclosed that the on-board interface is capable of enabling a user to control one or more functions of the pressure vessel unit or a user sensor capable of measuring one or more parameters of the user’s body condition.

Galerme discloses a pressure vessel unit wherein a plurality of controls for controlling breathing, oxygen, and compression are located both inside and outside of the vessel (Col. 16, Lines 36-42).

Butler discloses a user sensor capable of measuring one or more parameters of a user's body condition (Paragraphs 111, 123). Butler also discloses that manual controls may be replaced with electronic controls (Paragraph 115). Butler also discloses that the patient is given controls to start and stop the pressurization or depressurization at any time (Paragraphs 74-79).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a user sensor capable of measuring one or more parameters of a user's body condition, thereby monitoring and ensuring the user's safety throughout the session. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an on-board interface capable of enabling a user to control one or more functions of the pressure vessel unit, thereby giving the user the ability to intervene in the procedures whenever necessary.

Re Claims 2 and 6: The CVAC system, as discussed in claim 1, provides cyclic variations in altitude conditioning. It has also been discussed that controls for controlling the system can be used inside or outside the pressure vessel.

Re Claims 3-5 and 7-9: The CVAC system, as discussed in claim 1, provides safety measures for the user ("CVAC FAQ" Page 3).

However, it is not specifically disclosed what safety measures are provided or implemented.

Butler discloses that, for example, the temperature monitor provides information that determines if the temperature should be lowered (Paragraph 111), or that the blood pressure monitor determines if any parameters are outside of an acceptable range, where the operator can then make adjustments (Paragraph 123). Butler also discloses that the system can be computerized to provide programs to control the system based on system sensors and monitoring and

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measurement devices (Paragraphs 114-120). The system dynamically adapts to events that occur during use of the system (Paragraph 129).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use sensors to determine if a measured parameter is at a level that warrants a modification, and then have the on-board interface modify or change the program, thus ensuring that the safety of the user is always monitored and kept in check.

Re Claim 10: Note that claim 10 includes the pressure vessel of claim 1, and also a kiosk controller and a master controller.

CVAC ("CVAC What's New", figure on right) discloses a computer kiosk.

However, it is not specifically disclosed what how the computer kiosk is used, and a master controller is not disclosed.

Butler discloses that a network of local and remote computer systems are coupled to the pressure vessel system (controls, sensors, interface), running programs to control the operation of the vessel, and to store and retrieve information regarding the programs and profiles to be run on the system, as well as information regarding users of the vessel (Paragraphs 118-121).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a kiosk controller and a master controller comprising first and second software programs, and information processing systems for executing the programs, such that the controllers are able to control the pressure vessel system with a series of programs adaptive to various situations and parameters.

Re Claims 11-14: Note that claims 11-14, dependent on claim 10, include limitations also found in claims 2-5, dependent on claim 1, each of which have been discussed above.

Re Claims 15-20: Note that claims 15-20, dependent on claim 10, include limitations also found in claims 6-9, dependent on claim 1, except that claims 15-20 relate to the kiosk controller (instead of an "external controller"). Also in claims 19 and 20, it is claimed that the information processing system, instead of the external controller, is capable of performing the tasks as in claims 7-9. It is claimed in claim 10 that the information processing system is included in the kiosk controller. Claims 6-9 have each been discussed above. It has been discussed in regard to claim 10 that the kiosk controller is coupled to the sensors and measurement devices and controls the operation of the pressure vessel.

Re Claims 21 and 22: It is not specifically disclosed that the CVAC system includes a master controller, located in a separate facility, that is capable of storing user data entered into the kiosk controller or on-board interface, and that the master controller is capable of making stored data available to a second kiosk controller.

Butler discloses that the storage and retrieval system includes both local and remote systems, that databases may be local or through the Internet (Paragraphs 120-121).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the master controller located at a separate facility and to have the master controller capable of storing user data entered into and stored on the kiosk controller or on-board interface, thus providing a central or separate database that allows a kiosk or user to retrieve information from a remote location.

Re Claim 23: The CVAC system discloses the used of a plurality of pressure vessels ("CVAC Background/Development, Page 2, Figures), however, it is not specifically disclosed if each pressure vessel has its own kiosk controller.

Butler discloses that the storage and retrieval system can include online databases, as discussed above.

Examiner takes OFFICIAL NOTICE that it is well known in the art to use online databases with a plurality of client computers accessing the online database.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the master controller capable of making the data stored on the master controller available to a second kiosk controller in electrical communication with the master controller, such that a user can make use of a second pressure vessel unit in electrical communication with the second kiosk controller without the need to re-enter data already stored in the master controller, providing a centralized database of information.

Re Claim 24: Note that claim 24 includes limitations of making available to a user the system of claim 10, and allowing the user to pay for a session in the system via an entry of payment information relating to the user into the kiosk controller.

The CVAC system is a system that must be made available to a user for the user to use the system.

However, it is not specifically disclosed how the user of the CVAC system pays for services.

Examiner takes OFFICIAL NOTICE that it is well known in the art to provide payment methods to a system through a controlling kiosk or on the system/apparatus itself, through bill

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receptors, change receptors, magnetic strips, smart cards, radio frequency, keypad entry of identification, keypad entry of credit information, etc.

It would have been obvious to one of ordinary skill in the art at the time the information was made to allow the user to pay for a session in the system via an entry of payment information into the kiosk controller.

Re Claims 25: The CVAC system does not specifically disclose downloading data from the kiosk controller to the master controller, wherein the data relates to the user and was previously entered and stored on the kiosk controller.

Butler discloses that the controllers form a storage and retrieval system, including local and remote systems, for storing and retrieving information relating to the user (Paragraphs 120-122).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to download data to the master controller, creating a centralized database of user information.

Re Claim 26: The limitations of claim 26 have been discussed with regard to claim 21.

Re Claims 27 and 28: The limitations of claims 27 and 28 have been discussed with regard to claim 23.

Re Claim 29: The CVAC system provides for a set-up program to ensure that the user is capable of safely completing a regular session of cyclic variations in altitude conditioning ("Introducing the CVAC Process"). Additionally, it is well known in the art to provide users of a

service the ability to determine and ensure that the service is safe for the user before the user uses the provided service.

Re Claim 30: The CVAC system includes programmed sessions that are adjusted sessions, taking advantage of the user's history of use ("CVAC What is CVAC").

Re Claims 31-33: The limitations of claims 31-33 have been discussed above in regards to claims 3-5.

6. Claims 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over CVAC (as evidenced by "Introducing the CVAC Process") in view of Butler (US Patent Application Publication No. 2004/0261796).

Re Claim 34-35: The CVAC system is a method including completing a set-up session, selecting a cyclic variations in altitude conditioning program unique to the individual, enabling the user to undergo rapid transitions between simulated altitudes in the pressure vessel according to cycles determined by the program ("Introducing the CVAC Process").

However, it is not specifically disclosed that the CVAC system classifies or categorizes the user, or uses sensors to measure the user's body condition and determines if measured parameters are within a predetermined range, and modifying or switching the program in real time to match the current conditions.

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Butler discloses that programs are designed to be specific to certain treatment profiles, based on the user's data (Paragraphs 121-122). Butler also discloses using sensors to determine if measured parameters are within a predetermined range (Paragraphs 111, 114-120, 123, 129).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to classify users into categories so that specific treatments based on the user's data can be safely used. It would have been obvious to have sensors monitor the measured parameters such that the user of the system is constantly being operated within safe conditions and levels.

Re Claims 36-39: The limitations of providing payment on the on-board interface or on the kiosk have been discussed above with regard to claim 24.

Response to Arguments

7. Applicant's arguments, see page 1-7 and pages 13-14, filed 4/25/2007, with respect to the rejections made under 35 U.S.C. 112 and the objections to the drawings, respectively, have been fully considered and are persuasive. The rejection of claims 10-39 and the objection to the drawings have been withdrawn.

8. Applicant's arguments with respect to claims 1-39 (prior art rejections) have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Cheung whose telephone number is (571) 270-1349. The examiner can normally be reached on Mon-Fri, 8:00-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VC

Victor Cheung
July 2, 2007


Robert Pezzuto
Supervisory Patent Examiner
Art Unit 3714